

D.T.E. 99-53

Investigation by the Department on its own motion as to the propriety of the rates and charges set forth in the following tariff: M.D.T.E. No. 15, filed with the Department on May 17, 1999 to become effective June 1, 1999 by Dover Water Company.

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FOR: DOVER WATER COMPANY

Petitioner

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Department of Telecommunications and Energy

One South Station

Boston, MA 02110

FOR: SETTLEMENT INTERVENTION STAFF

Intervenor

I. INTRODUCTION

On May 17, 1999, the Dover Water Company ("Dover" or "Company") filed new rates and tariffs with the Department of Telecommunications and Energy ("Department"), designed to collect additional annual revenues of \$65,513, pursuant to G.L. c. 164, § 94, and G.L. c. 165, § 2. This petition represented an increase of 16.22 percent over rates in effect on November 16, 1990. By Department Order dated May 19, 1999, the Department suspended the proposed rates until December 1, 1999. The Department appointed Settlement Intervention Staff ("SIS") to act as a full intervenor in the proceeding in order to promote negotiations and effect a settlement if feasible. A public hearing was held in the Town of Dover on July 14, 1999. On that date, representatives of the Company and SIS (collectively "Parties"), and the Department conducted a site visit of the Company's facilities. On November 15, 1999, SIS, on behalf of the Parties, submitted a Joint Motion for Approval of Offer of Settlement and an Offer of Settlement ("Settlement") with an expiration date of December 31, 1999. On November 19, 1999, the Department further suspended the rates and charges in this matter until January 1, 2000.

II. PROPOSED SETTLEMENT

By its terms, the Settlement filed by the Parties on November 15, 1999 with the Department is intended to resolve all issues in D.T.E. 99-53 and is expressly conditioned upon the Department's acceptance without change or condition by December 31, 1999, of all of the provisions therein (Settlement at 6).

The key provisions of the proposed Settlement are as follows.

First, the Settlement specifies that the additional annual revenues shall be \$50,628, representing an increase of 12.53 percent over rates in effect on November 16, 1990. The overall rate of return on rate base shall be 10.24 percent, based on a return on common equity of 11.5 percent and a capital structure consisting of 38.87 percent long-term debt, and

61.13 percent common equity (id. at 3).

Second, in its original filing, the Company proposed an across-the-board increase for its metered rates. The Settlement provides that the decrease in revenue requirement from the originally requested amount will be achieved by decreasing the base charge per quarter while maintaining the volumetric rates as originally filed (id. at 3).

Third, the Settlement provides that the Company will make certain adjustments to its accounting practices and to rate base in accordance with discussions held between the Parties (id. at 3,4).

Fourth, the Settlement states that the depreciation treatment set forth in D.P.U. 90-86 is appropriate and should continue to be implemented by the Company

(id. at 4).

Fifth, the Settlement states that the Company will revise its Rules and Regulations to clarify that during Emergency or Drought Conditions, a customer violating the applicable conservation rules will be issued a written warning for a first violation. Subsequent violations will result in a \$100 fine and termination of water service, with costs of termination and restoration of service to be paid by the customer (id.).

Sixth, the Parties agreed that the Company will continue to improve its efforts to coordinate with the Town of Dover regarding leak maintenance and the control of drainage in the public ways during periods of high groundwater. The Company will also continue to improve its efforts to communicate said coordination to affected customers (id. at 5).

Lastly, the Parties agreed that this Settlement would provide only for the rate increase of 12.53 percent and sets no contingent increase in the event that the Town of Dover does not renew its contract with the Company (id. at 5).

III. STANDARD OF REVIEW

The Department instituted the settlement intervention process to reduce administrative costs incurred by small water companies and their ratepayers in adjudicating rate cases. East Northfield Water Company, D.T.E. 98-127, at 3 (1999). In assessing the reasonableness of the settlement and the revenue increase reflected in it, the Department must review the entire record presented in the Company's filing and other record evidence to ensure that the settlement is consistent with Department precedent and the public interest. See Western Massachusetts Electric Company, D.P.U. 92-13, at 7 (1992); Barnstable Water Company, D.P.U. 91-189, at 4 (1992); Cambridge Electric Light Company, D.P.U. 89-109, at 5 (1989); Southbridge Water Supply Company, D.P.U. 89-25 (1989); Eastern Edison Company, D.P.U. 88-100, at 9 (1989).

IV. ANALYSIS AND FINDINGS

Based on the Department's review of the record in this proceeding, the Department finds that the Settlement submitted by the Parties results in just and reasonable rates, and is consistent with Department precedent and the public interest. The Department finds that the Settlement includes a rate structure that balances the competing goals of allocating costs while maintaining rate continuity. See Boston Gas Company, D.P.U. 96-50-A at 4 (1996); see also Whitinsville Water Company, D.P.U. 96-111, at 6 (1997). Therefore, the

Department approves the Settlement. We note that our acceptance of the Settlement does not set a precedent for future filings whether ultimately settled or adjudicated.

V. ORDER

After due notice, hearing and consideration, it is

ORDERED: That the Joint Motion for Approval of Offer of Settlement, as filed by the Dover Water Company and Settlement Intervention Staff is hereby granted; and it is

FURTHER ORDERED: That Dover Water Company's tariffs as set forth in the

May 17, 1999, filing are rejected; and it is

FURTHER ORDERED: That Dover Water Company's Rules and Regulations tariff, M.D.T.E. No. 17, as attached to the Offer of Settlement, will become effective on January 1, 2000; and it is

FURTHER ORDERED: That Dover Water Company's existing tariff, M.D.P.U. No. 14, be replaced by M.D.T.E. No. 16, the tariff attached to the Offer of Settlement, to become effective January 1, 2000.

By Order of the Department,

Janet Gail Besser, Chair

James Connelly, Commissioner

W. Robert Keating, Commissioner

Eugene J. Sullivan, Jr., Commissioner

Paul B. Vasington, Commissioner

Appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing

of a written petition praying that the Order of the Commission be modified or set aside in whole or in part.

Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. (Sec. 5, Chapter 25, G.L. Ter. Ed., as most recently amended by Chapter 485 of the Acts of 1971).